

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1967

NO. 319

NUGENT KAUTZ, ET AL.
Petitioners,

v.

**DEPARTMENT OF GAME OF THE
STATE OF WASHINGTON AND THE
DEPARTMENT OF FISHERIES OF THE
STATE OF WASHINGTON,**
Respondents.

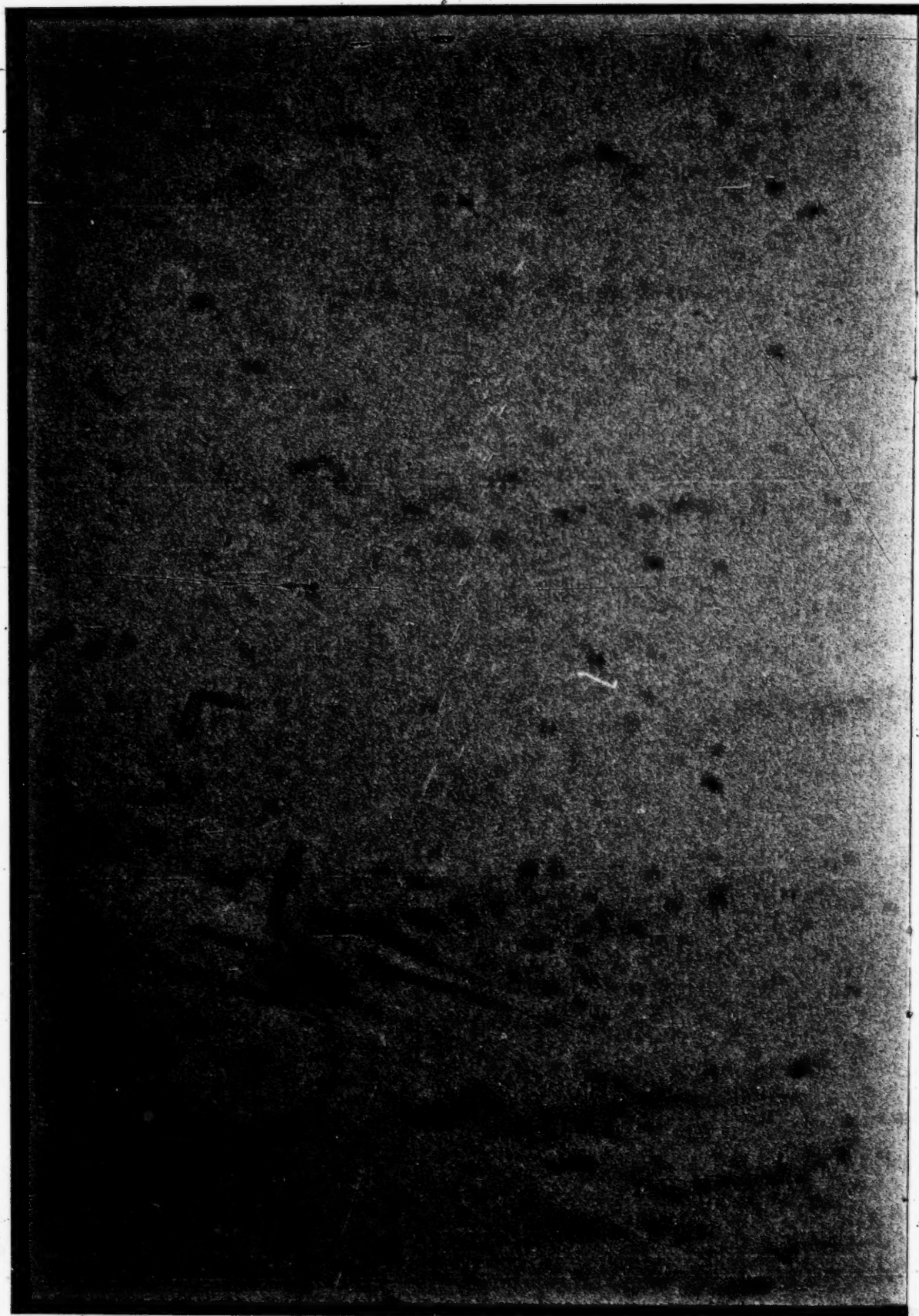
PETITION FOR WRIT OF CERTIORARI
To the Supreme Court of the State of Washington

**BRIEF AMICUS CURIAE ON BEHALF OF THE STATE
OF IDAHO FISH AND GAME DEPARTMENT URGING
GRANTING OF PETITIONERS' APPLICATION FOR
A WRIT OF CERTIORARI**

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BRIEF FOR AMICUS CURIAE STATE OF IDAHO FISH
AND GAME DEPARTMENT IN SUPPORT

STATEMENT OF INTEREST

The State of Idaho through its Fish and Game Department, being represented by its Attorney General, pursuant to Rule 27, par. 9. (d), Revised Rules of the Supreme Court of the United States, urges the granting of petitioners' Application for a writ of certiorari to review the decree of the Supreme Court of the State of Washington in its opinion for the above-entitled case reported at 78 Wn. Decisions (2d) 270.

The Idaho Fish and Game Department is organized under Title 36 of the Idaho Code and has the

duty to preserve, protect, propagate and manage the fish and wildlife resources within the State of Idaho and in waters boundary thereto.

The State of Idaho supports a large anadromous fishery resource and a sizable portion of the State's economic structure is built around sport fishing by residents and non-residents for anadromous fish.

All anadromous fish migrating from the Pacific Ocean to their natal streams in Idaho must first ascend the Columbia River and then the Snake River where the same are subject to off-reservation fishing by Indians who are members of tribes located in Washington, Oregon and Idaho.

For the above and foregoing reasons the State of Idaho has long been concerned with the impact of the off-reservation Indian fishing, both commercial and non-commercial on the anadromous fishery resources of the States of Washington, Oregon and Idaho.

ARGUMENT

The State of Idaho submits that there is a present need for a review by the United States Supreme Court of the right of the State of Washington to impose reasonable and necessary regulations upon off-reservation Indian fishing, inasmuch as such a determination by this Court will also be determinative of the right of the State of Idaho to impose regulatory restrictions as are reasonable and necessary for the conservation of the fishery

resource upon Indians in Idaho who claim treaty off-reservation fishing rights under treaty provisions identical to or very similar to the provisions of the Treaty of Medicine Creek, 10 Stat. 1132.

CONCLUSION

For the foregoing reasons, the State of Idaho Fish and Game Department respectfully urges the court to grant petitioners' application for a writ of certiorari.

Respectfully submitted,

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